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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,633	03/04/2002	Jacob Geva	P-1471-US1	8276

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EXAMINER

RAYMOND, EDWARD

ART UNIT

PAPER NUMBER

2857

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

(JAC)

Office Action Summary	Application No.	Applicant(s)
	10/086,633	GEVA, JACOB
	Examiner Edward Raymond	Art Unit 2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 March 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-14, 16-27, 29 and 31-40 is/are rejected.
- 7) Claim(s) 15, 28 and 30 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 3/4/02 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> .	6) <input type="checkbox"/> Other: _____

'DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-14, 16-27, 29, and 31-38** are rejected under 35 U.S.C. 103(a) as being unpatentable over Cherry et al in view of Thompson and further in view of Bible. Cherry et al. teach an ambulatory patient monitoring apparatus (Claims 1, 20, 21, and 36-38: see col. 2, lines 55-57) comprising a portable housing comprising at least one physiological data input device operative to gather physiological data of the patient (Claims 1, 20, 21, and 36-38: see col. 2, lines 57-62 and also Figures 9-20: Compcoorder 9); signal processing circuitry for processing signals associated with any of the physiological data input device, the location determination circuitry, the voice communications circuitry (Claims 1, 13, 20, 21, and 36-40: see Figure 1: Signal Conditioning Module 14); and control circuitry (Claims 1, 20, 21, and 36-40: see Figure 1: CPU 36).

Cherry et al. teach an apparatus wherein at least one physiological data input device is assembled within the housing (Claim 2: see Figures 9-20).

Cherry et al. teach an apparatus wherein at least one physiological data input device is at least partially connected to the housing (Claim 3: see Figures 9-20).

Cherry et al. teach an apparatus wherein the external portion of the at least one physiological data input device is connected to the housing via a connector (Claim 4: see Figures 9-20: Compcoorder 9: The Examiner notes that the physiological data input device is connected to the housing via a connector, although the reference does not explicitly disclose a connector).

Cherry et al. teach an apparatus wherein the at least one physiological data input device communicate with the communication circuitry through wires (Claims 5: see Figure 2: Modem 28).

Cherry et al. teach an apparatus wherein the control circuitry operates the physiological data input device continuously or upon initiation by the patient (Claims 10, 11, 12, and 27: see col. 8, line 65 through col. 9, line 6).

Cherry et al. teach an apparatus wherein the control circuitry comprises a memory for storing any of the physiological data (Claims 14 and 26: see col. 6, lines 61-67).

Cherry et al. teach an apparatus wherein the control circuitry is operative to determine whether the physiological data are outside or within the preset parameters (Claims 16, 17, 18, and 33: see col. 5, line 62 through col. 6, line 9: The Examiner notes that the report provided can analyze whether there is an arrhythmia, which is an event outside of the default or normal parameters received from the heart).

Cherry et al. teach a method wherein memory comprises preprogrammed instructions for output to the patient via either of a display and a speaker and clearing a portion of the memory after data has been communicated to central health monitoring

station (Claims 19, 29, and 34: see Figure 2: Audible Alarm 45 and EEPROM 40, and CPU 24: The Examiner notes that the alarm can be a voice instruction).

Cherry et al. teach a method comprising analyzing the physiological data and providing a response based on the physiological data (Claim 22: see col. 5, line 62 through col. 6, line 9).

Cherry et al. teach a method wherein the gathering step is performed in response to activation by the patient (Claim 23: see col. 11, lines 41-45).

Cherry et al. does not teach a location determination circuitry operative to determine geographic location information of the patient. Thompson teaches a location determination circuitry operative to determine geographic location information of the patient (Claims 1, 14, and 15: see col. 7, lines 24-27). It would have been obvious to the person having ordinary skill in the art at the time of the invention to include patient location determination circuitry, as taught by Thompson, because this would allow for a patient's geographic location to be determined in the case of an emergency.

Cherry et al. does not teach a cellular telephone communications circuitry for communicating the physiological data and the geographic location information to a central health monitoring station. Thompson teaches a cellular telephone communications circuitry for communicating the physiological data and the geographic location information to a central health monitoring station (Claims 1, 14, and 15: see col. 7, lines 58-66). It would have been obvious to the person having ordinary skill in the art at the time of the invention to include a cellular telephone communications circuitry for communicating the physiological data and the geographic location information to a

central health monitoring station, as taught by Thompson, because this allows for a long range monitoring system.

Cherry et al. does not teach a communications means for communicating through a data network. Thompson teaches a communications means for communicating through a data network (Claims 1, 20, 21, 36, and 38: Figure 1: Medical Support Network 50). It would have been obvious to the person having ordinary skill in the art at the time of the invention to include data communications, as taught by Thompson, because this would allow for a central health location to communicate with the patient being monitored or access information from the patient's physiological sensors.

Cherry et al. does not teach an apparatus wherein the location determination circuitry comprises GPS circuitry. Thompson teaches an apparatus wherein the location determination circuitry comprises wireless communication or GPS circuitry (Claims 6, 7, and 9: see col. 7, lines 17-33). It would have been obvious to the person having ordinary skill in the art at the time of the invention to include GPS circuitry, as taught by Thompson, because this would allow for accurate determination of the patient's location while wireless.

Cherry et al. does not teach a method further comprising activating an alarm prior to activation by the patient. Thompson teaches a method further comprising activating an alarm prior to activation by the patient (Claim 24: see col. 8, lines 14-25). It would have been obvious to the person having ordinary skill in the art at the time of the

invention to include an alarm, as taught by Thompson, because this would notify the patient and the central location of an emergency.

Cherry et al. does not teach a method wherein the gathering step is performed independently from activation by the patient. Thompson teaches a method wherein the gathering step is performed independently from activation by the patient (Claim 25: see col. 8, lines 14-25). It would have been obvious to the person having ordinary skill in the art at the time of the invention to include a method wherein the gathering step is performed independently from activation by the patient, as taught by Thompson, because the monitoring circuit and central health station may better determine whether the patient's physiological signals are abnormal or not.

Cherry et al. does not teach a method wherein the communicating step is performed in response to activation by the patient. Thompson teaches a method wherein the communicating step is performed in response to activation by the patient (Claim 21: see col. 11, lines 45-57). It would have been obvious to the person having ordinary skill in the art at the time of the invention to include a method wherein the communicating step is performed in response to activation by the patient, as taught by Thompson, because this would allow for the patient to initiate a distress call in required.

Cherry et al. does not a method wherein the communicating step comprises establishing a communication link with the central health monitoring station in response to an incoming communication from the central health monitoring station. Thompson teaches a method wherein the communicating step comprises establishing a communication link with the central health monitoring station in response to an incoming

communication from the central health monitoring station (Claims 31, 32, and 33: see col. 11, lines 4-30 and also col. 10, lines 57-61). It would have been obvious to the person having ordinary skill in the art at the time of the invention to include a method wherein the communicating step comprises establishing a communication link with the central health monitoring station in response to an incoming communication from the central health monitoring station, as taught by Thompson, because the central health station may want to contact the patient for a follow-up.

Cherry et al. does not teach a method wherein the providing a response step comprises providing the patient's location to emergency medical personnel and dispatching the personnel to the patient's location. Thompson teaches a method wherein the providing a response step comprises providing the patient's location to emergency medical personnel and dispatching the personnel to the patient's location (Claim 35: see Figure 7 and also col. 12, lines 18-26). It would have been obvious to the person having ordinary skill in the art at the time of the invention to include a method wherein the providing a response step comprises providing the patient's location to emergency medical personnel and dispatching the personnel to the patient's location, as taught by Thompson, because the emergency personnel could receive an accurate location in an emergency to reduce the response time.

Cherry et al. does not teach an optical transmitter. Bible teaches a patient monitor that uses an optical transmitter (Claim 8: see col. 8, lines 8-16). It would have been obvious to the person having ordinary skill in the art at the time the invention was made to modify Cherry et al. to use an optical transmitter, as taught by Bible, because

this would allow for a low power and highly efficient means of transmitting data from the patient to the central monitoring device.

Allowable Subject Matter

3. **Claims 15, 28, and 30** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

4. This is a Continuation in Part of applicant's earlier Application No. 09/261,136. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Raymond whose telephone number is 703-308-6235. The examiner can normally be reached on Monday through alternating Friday between 8:00 AM and 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-4447 for regular communications and 703-308-0956 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

July 9, 2003
Edward Raymond
Patent Examiner
Art Unit 2857

Marc Hoff
MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800